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10/681,075	10/08/2003	Jay S. Walker	02-075	7676

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EXAMINER	
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3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	**Application No.** 10/681,075	**Applicant(s)** WALKER ET AL.
	Examiner ADETOKUNBO O. TORIMIRO	**Art Unit** 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _30 April 2008_.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-8,10,11,14-28,31 and 32_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-8,10,11,14-28,31 and 32_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. The amendment received on 04/30/2008 has been considered. Claims 1,20,26, and 27 have been amended. Claims 9,12,13,29, and 30 have been cancelled. New Claim

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-8,10,11,20,26-28, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oles et al. et al. (US 6,641,484) in view of Rafaeli (US 6,755,741) and Meadows et al (US 2002/0082775).

Re claim 1: Oles et al teaches a method, comprising processing the game play information to determine a message **(see figs. 3 and 5; col.8, lines 35-47; col.10, lines 53-62; col.16, line 48-col.17, line 4)**; and transmitting the message to a player of the gaming device **(see col.16, lines 55-60 and col.17, lines 4-7)**.

However, Oles et al fails to teach deriving game play information from a gaming device absent direct communication with a component of the gaming device; comparing the derived data to data stored in a memory of a computing device to identify the occurrence of a predetermined game play event to determine a message.

Rafaeli teaches deriving game play information from a gaming device absent direct communication with a component of the gaming device **(see fig.8A; col.9, lines 3-10)**.

Meadows et al teaches comparing the derived data to data stored in a memory of a computing device to identify the occurrence of a predetermined game play event to determine a message **(see par. [0178])**.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Rafaeli into Oles et al. One would be motivated to do this so as to have a predictable outcome whereby the monitoring of the gaming machine can be done discretely without the game player being aware and also to provide a more secured form of protection in the gaming establishment; also so as to have a predictable outcome of comparing the newly captured information to the already known and stored information thereby providing the game the gaming establishment or the player the opportunity to differentiate between the new data and the already known data for various purposes.

Re claim 2: Oles et al teaches wherein the game play information comprises at least one of: a predetermined outcome for a game play; a predetermined payout for a game play; a payout above a predetermined threshold; a payout below a predetermined threshold; a predetermined sum of payouts for a plurality of game plays; a placement of a predetermined wager by a player of the gaming device; a predetermined reel configuration; a play strategy employed by a player of the gaming device; a request by a player of the gaming device to cash out credits from the gaming device; entrance into a bonus round; a win of a bonus prize; a credit balance of the gaming device reaching a predetermined amount; a predetermined change in a credit balance of the gaming device;

and an actuation by a player of the gaming device of a predetermined button on the gaming device **(see col.1, lines 56-62)**.

Re claim 3: Oles et al teaches further comprising game play information from the gaming device by monitoring at least one of: data displayed on a display device of the gaming device **(see col.16, lines 55-60)**; a status of a mechanical display of the gaming device; acoustical data output by the gaming device; actuation of a mechanism of the gaming device **(see col.1, lines 56-62)**; selection of areas of a touch screen of the gaming device; wager placement at the gaming device; insertion of currency into the gaming device **(see col.18, lines 16-19)**; cashless gaming activity at the gaming device; output of a receipt at the gaming device **(see col.18, lines 14-19)**; usage of a player tracking card reader of the gaming device **(see col.17, line 30-col.18, line 13)**; an output of coins into a coin tray of the gaming device; vibrations emanating from the gaming device and at least one of electrical, electromagnetic, infrared, and radio frequency signals being output from or received by the gaming device.

Re claims 4-8: Oles et al teaches wherein the data derived from the gaming device comprises at least one of: graphical data / *image information from camera*, acoustical data / *audio information from microphone*, electrical signals, electromagnetic signals, infrared signals and radio frequency signals **(see col.5, lines 34 and 35)**; wherein the game play information is derived by intercepting data output by the gaming device / *what is displayed on display (24)*; wherein intercepting data comprises: intercepting, a digital signal output by a processor of the gaming device **(see col.2, lines 28-39)**; wherein intercepting data comprises: intercepting a signal output by the gaming device to another device **(see col.17, line 65-col.18, line 2)**; wherein intercepting data comprises: intercepting at least one of graphical data / *image information from camera* and acoustical data / *audio information from microphone* output by the gaming device.

Re claims 10 and 11: Oles et al teaches further comprising: providing the game play information to a server **(see fig. 5)**; further comprising: receiving, from the server, an indication of a message to be output to the player of the gaming device **(see col.16, lines 55-60)**.

Re claim 20: Oles et al teaches a system, comprising: gaming device (20), the gaming device being operable to output a first set of data / *output of the camera* **(see col.11, lines 55 and 56)** to a first server via a computer network / *network* **(see figs. 3 and 5)**, and the gaming device being further operable to output a second set of data **(see col.23, lines 55-60)** to an operator / *player* of the gaming device via an interface / *display* (124); wherein the information deriving device is operable to derive the game play data independent from the operation of the gaming device **(see abstract; figs.1 and 2; col.1; lines 49-52)**, and wherein the information deriving device is further operable to cause a message to be output to a player of the gaming device, the message being determined based on the game play data **(see col.23, lines 55-60)**.

However, Oles et al does not teach an information deriving device being operable to derive game play data from the gaming device absent direct communication with any component of the gaming device; comparing the derived data to data stored in a memory of a computing device to identify the occurrence of a predetermined game play event to determine a message.

Rafaeli teaches an information deriving device being operable to derive game play data from the gaming device absent direct communication with any component of the gaming device **(see fig.8A; col.9, lines 3-10)**.

Meadows et al teaches comparing the derived data to data stored in a memory of a computing device to identify the occurrence of a predetermined game play event to determine a message **(see par. [0178])**.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Rafaeli into Oles et al. One would be motivated to do this so as to have a predictable outcome whereby the monitoring of the gaming machine can be done discretely without the game player being aware and also to provide a more secured form of protection in the gaming establishment; also so as to have a predictable outcome of comparing the newly captured information to the already known and stored information thereby providing the game the gaming establishment or the player the opportunity to differentiate between the new data and the already known data for various purposes.

Re claims 26 and 27: Oles et al teaches an apparatus, comprising: a display (124); a processor / *CPU* (58); and a storage device / *memory* (60) that stores a program for directing the processor, the processor being operative with the program to: process game play information to determine a message **(see figs. 3 and 5; col.10, lines 53-62; col.16, line 48-col.17, line 4)**, and output the message to a player of the gaming device on the display **(see col.16, lines 55-60 and col.17, lines 4-7)**, and wherein the gaming device (20) is operable to: output via a computer network (64) a first set of data / *output of the camera* **(see col.11, lines 55 and 56)** to a computing device / *modulator* (186) **(see fig. 5)**, and output a second set of data to an operator of the gaming device via an interface of the gaming device **(see col.23, lines 55-60)**.

However, Oles et al does not teach a sensor for deriving game play information from a gaming device absent direct communication with any component of the gaming device; comparing the derived data to data stored in a memory of a computing device to identify the occurrence of a predetermined game play event to determine a message.

Rafaeli teaches a sensor / *camera, microphone* for deriving game play information from a gaming device absent direct communication with any component of the gaming device **(see fig.8A; col.9, lines 3-10)**.

Meadows et al teaches comparing the derived data to data stored in a memory of a computing device to identify the occurrence of a predetermined game play event to determine a message **(see par. [0178])**.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Rafaeli into Oles et al. One would be motivated to do this so as to have a predictable outcome whereby the monitoring of the gaming machine can be done discretely without the game player being aware and also to provide a more secured form of protection in the gaming establishment; also so as to have a predictable outcome of comparing the newly captured information to the already known and stored information thereby providing the game the gaming establishment or the player the opportunity to differentiate between the new data and the already known data for various purposes.

Re claim 28: Oles et al teaches wherein the game play information **(see col.16, lines 55-60)** is mutually exclusive from the first set of data / *the message displayed* and the second set of data / *audio information*.

Re claim 31: Oles et al. teaches wherein the processor / *CPU* (58) being operative with the program to output the message comprises the processor being operative with the program to output the message via the display of the apparatus / *associated text* **(see fig. 5)**.

4. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rafaeli (US 6,755,741) in view of Meadows et al (US 2002/0082775) and Oles et al. et al. (US 6,641,484).

Re claim 14: Rafaeli teaches a method, comprising: capturing game play data displayed on a display component of a gaming device, the capturing being independent from the operation of the gaming device **(see fig. 8A; col.9, lines 3-10)**; determining, based on the computing, a message corresponding to the predetermined event / *"WINS" and "LOSSES"* **(see col.9, lines 20-25)**; and transmitting the message to a player of the gaming device / *"WINS" and "LOSSES"* **(see fig. 8B; col.5, lines 36-45; col.9, lines 20-25)**.

However, Rafaeli does not explicitly teach comparing the captured data to data stored in memory of a computing device to identify the occurrence of a predetermined game play event.

Meadows et al teach comparing the captured data to data stored in memory / *known data and results* of a computing device to identify the occurrence of a predetermined game play event **(see par. [0178])**.

Oles et al also teaches determining based on the computing, a message corresponding to the predetermined event **(see figs. 3 and 5; col.8, lines 35-47; col.10, lines 53-62; col.16, line 48-col.17, line 4; col.16, lines 55-60 and col.17, lines 4-7)**.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the comparing in Meadows et al into the teaching of Rafaeli. One would be motivated to this so as to have a predictable outcome of comparing the newly captured information to the already known and stored information thereby providing the game the gaming establishment or the player the opportunity to differentiate between the new data and the already known data for various purposes.

Re claim 15: Rafaeli teaches wherein capturing data comprises: capturing the data via at least one camera focused on the display component of the gaming device **(see fig. 8A)**.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rafaeli (US 6,755,741) in view of Meadows et al (US 2002/0082775) and further in view of Oles et al. et al (US 6,641,484).

Re claim 16: Rafaeli teaches the method of capturing data.

However, Rafaeli does not teach wherein the camera is attached to the gaming device.

Oles et al teaches wherein the camera is attached / *mounted* to the gaming device **(see fig. 1; col.5, lines 44-45)**.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein the camera is attached to the gaming device, as disclosed by Oles et al, and incorporated into Rafaeli in order to encompass the area of the buttons, coin acceptor and bill validator.

6. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rafaeli (US 6,755,741) in view of Meadows et al (US 2002/0082775) and further in view of Rowe (US 2003/0028480).

Re claim 17: Rafaeli teaches the method of capturing and transmitting data.

However, Rafaeli does not teach wherein causing comprises: causing the message to be output on a portable device associated with the player.

Rowe teaches wherein causing comprises: causing the message to be output on a portable device associated with the player **(see par. [0035])**.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein causing comprises: causing the message to be output on a portable device associated with the player, as disclosed by Rowe, incorporated into Rafaeli so that the user would be able to know what is happening with the gaming device.

Re claims 18 and 19: Rafaeli teaches the method of capturing and transmitting data.

However, Rafaeli does not teach wherein the message comprises an offer and further comprising: determining whether the player has accepted the offer and wherein determining whether the player has accepted the offer comprises: determining whether the player has performed an activity at the gaming device, in accordance with instructions included in the offer.

Rowe teaches wherein the message comprises an offer and further comprising: determining whether the player has accepted the offer / *audio game information could consist of an offer* and wherein determining whether the player has accepted the offer comprises: determining whether the player has performed an activity at the gaming device / *inserted a player tracking card*, in accordance with instructions included in the offer **(see par. [0036])**.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein the message comprises an offer and further comprising: determining whether the player has accepted the offer and wherein determining whether the player has accepted the offer comprises: determining whether the player has performed an activity at the gaming device, as disclosed by Rowe, incorporated into Rafaeli so that the user would know what offers they have received and receiving a confirmation upon making a decision thereby making the game more enjoyable.

7. Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oles et al (US 6,641,484) in view of Rafaeli (US 6,755,741) and further in view of Rowe (US 2003/0028480).

Re claims 21-25: Oles et al discloses the system comprising a gaming device; teaches wherein the information deriving device / *camera, microphone*.

However, Oles et al does not teach the system further comprising: a fourth device, the fourth device comprising a server for controlling the third device; wherein the information deriving device / *camera, microphone* is further operable to provide the game play data to the second server; wherein the second server is operable to: determine the message to be output to a player of the gaming device; wherein the second server is further operable to: transmit an indication of the message to the information deriving device, thereby instructing the information deriving device to output the message to the player; wherein the second server is further operable to: output the message to the player.

Rowe et al teach further comprising: a second server (120) for controlling the information-deriving device (207) **(see par. [0021])**; wherein the information deriving device is further operable to provide the game play data to the second server (120); wherein the second server is operable to: determine the message to be output to a player of the gaming device **(see figs. 1 and 2)**; wherein the second server is further operable to: transmit an indication of the message to the information deriving device, thereby instructing the information deriving device to output the message to the player **(see figs. 1 and 2)**; wherein the second server is further operable to: output the message to the player **(see figs. 1 and 2)**.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second server, as disclosed by Rowe, incorporated in Oles et al. in order to store player tracking account information such as information regarding a player's previous game play and to calculate player tracking points based on a player's game play that may be used as a basis for providing rewards to the player.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oles et al. et al. (US 6,641,484) in view of Rafaeli (US 6,755,741) and Meadows et al (US 2002/0082775) and further in view Klitsner et al (2002/0107061).

Re claim 32: The teachings of Oles et al, Rafaeli, and Meadows et al have been discussed above.

However, they do not teach wherein the predetermined game play event comprises at least one of a path or a strategy being used by a player to arrive at an outcome at the gaming device.

Klitsner et al teaches wherein the predetermined game play event comprises at least one of a path or a strategy being used by a player to arrive at an outcome at the gaming device **(see par.[0024])**.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination. One would be motivated to do this so as to have a game whereby the game play is that of strategy and hence keeping the player mentally involved in the game and hence making the game interesting.

Response to Arguments

9. Applicant's arguments and amendments with respect to the pending claims have been considered but are moot in view of the new grounds of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/A. O. T./

Examiner, Art Unit 3714

/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714